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11 and the Proposed Class

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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 ANDREA RESNICK, GARY BUNKER,) Case No. 09-cv-00002-PJH
17 JOHN HALEY, AMY LATHAM, ERIC)
18 ROSLANSKY and KEVIN SIMPSON, on) **PLAINTIFF'S ADMINISTRATIVE**
19 behalf of themselves and all others) **MOTION TO CONSIDER WHETHER**
20 similarly situated,) **CASES SHOULD BE RELATED**
21)
22 Plaintiffs,) **(Civil Local Rule 3-12)**
23)
24 v.)
25)
26 WALMART.COM USA LLC,)
27 WAL-MART STORES, INC., and)
28 NETFLIX, INC.,)
29)
30 Defendants.)
31)
32 This Document Relates to:)
33)
34 GABRIEL KRA, on behalf of himself and) **Case No. 09-cv-01499-JCS**
35 all others similarly situated,)
36)
37 Plaintiff,)
38)
39 v.)
40)
41 NETFLIX, INC. , a Delaware)
42 corporation; WAL-MART STORES,)
43 INC., a Delaware corporation; and WAL-)
44 MART.COM, USA, LLC, a Delaware)
45 corporation,)
46)
47 Defendants.)
48)

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that a related case, *Gabriel Kra v. Netflix, Inc., Wal-Mart Stores, Inc. Wal-Mart.Com, USA, LLC*, was filed on April 6, 2009, in the United States District Court for the Northern District of California. Pursuant to Civil Local Rules 3-12(b) and 7-11 of the United States District Court for the Northern District of California, Plaintiff Gabriel Kra and the Proposed Class (“Plaintiff”) submits this Administrative Motion to Consider Whether Cases Should be Related.

8 **I. RELATED CASES**

9 (1) *O'Connor v. Walmart.com, USA, LLC, et al.*, Case No. 09-cv-00096, filed on January 9, 2009, and presently assigned to the Hon. Phyllis J. Hamilton;

11 (2) *Endzweig v. Walmart.com USA, LLC, et al.*, Case No. 09-cv-00111, filed on January 9, 2009, and presently assigned to the Hon. Phyllis J. Hamilton;

13 (3) *Schmitz v. Walmart.com, USA, LLC, et al.*, Case No. 09-cv-00116, filed on January 9, 2009, and presently assigned to the Hon. Phyllis J. Hamilton;

15 (4) *Lynch, et al. v. Walmart.com, USA, LLC, et al.*, Case No. 09-cv-00138, filed January 12, 2009, and presently assigned to the Hon. Phyllis J. Hamilton;

17 (5) *Groce, et al. v. Walmart.com, USA, LLC, et al.*, Case 09-cv-00139, filed January 12, 2009, and presently assigned to the Hon. Phyllis J. Hamilton;

19 (6) *Sivek v. Walmart.com, USA, LLC, et al.*, Case 09-cv-00156, filed January 13, 2009, and presently assigned to the Hon. Phyllis J. Hamilton;

21 (7) *Faris v. Netflix, Inc., et al.*, Case No. 09-cv-00180, filed January 14, 2009;

22 (8) *Slobodin v. Netflix, Inc., et al.*, Case No. 09-cv-00225, filed January 16, 2009;

23 (9) *Anthony, et al., v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00236, filed January 20, 2009;

25 (10) *Polk-Stamps v. Netflix, Inc., et al.*, Case No. 09-cv-00244, filed January 20, 2009;

26 (11) *Sheeler v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00274, filed January 22, 2009;

- 1 (12) *Chapman v. Netflix, Inc., et al.*, Case No. 09-cv-00294, filed January 22, 2009;
- 2 (13) *Orozco v. Netflix, Inc., et al.*, Case No. 09-cv-00297, filed January 22, 2009;
- 3 (14) *Landels, et al., v. Netflix, Inc., et al.*, Case No. 09-cv-00340, filed January 26, 2009;
- 4 (15) *Grime v. Netflix, Inc., et al.*, Case No. 09-cv-00349, filed January 26, 2009;
- 5 (16) *Meyer v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00361, filed January 26,
- 6 2009;
- 7 (17) *Randall v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00368, filed January 27,
- 8 2009;
- 9 (18) *Miscioscia v. Netflix, Inc., et al.*, Case No. 09-cv-00377, filed January 27, 2009;
- 10 (19) *Hirsch v. Netflix, Inc., et al.*, Case No. 09-cv-00375, filed January 27, 2009;
- 11 (20) *Patras, et al. v. Netflix, Inc., et al.*, Case No. 09-cv-00378, filed January 27, 2009;
- 12 (21) *Chatelain v. Netflix, Inc., et al.*, Case No. 09-cv-00391, filed January 28, 2009;
- 13 (22) *Weiner v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00398, filed January 28,
- 14 2009;
- 15 (23) *Millrood v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00399, filed January 28,
- 16 2009;
- 17 (24) *Kober v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00400, filed January 28,
- 18 2009;
- 19 (25) *LaCabe v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00402, filed January 28,
- 20 2009;
- 21 (26) *Norem v. Netflix, Inc.*, Case No. CV-09-00956-MJ (Cal. Super. Ct., County of Santa
- 22 (27) Clara), filed January 28, 2009;
- 23 (28) *Roy v. Netflix, Inc., et al.*, Case No. 09-cv-00434, filed January 29, 2009;
- 24 (29) *Bruno, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00445, filed
- 25 January 30, 2009;
- 26 (30) *Zaker v. Netflix, Inc., et al.*, Case No. 09-cv-00447, filed January 30, 2009;
- 27 (31) *Parikh v. Netflix, Inc., et al.*, Case No. 09-cv-00496, filed February 3, 2009;
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- (32) *Johnson v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00553, filed February 6, 2009;
- (33) *Gannon v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00554, filed February 6, 2009;
- (34) *Williams v. Netflix, Inc., et al.*, Case No. 09-cv-00678, filed February 17, 2009;
- (35) *Cornett v. Netflix, Inc., et al.*, Case No. 09-cv-01605, filed March 5, 2009;
- (36) *Macias v. Netflix, Inc., et al.*, Case No. 09-cv-00961, filed March 5, 2009;
- (37) *Randle v. Netflix, Inc., et al.*, Case No. 09-cv-00962, filed March 5, 2009 and,
- (38) *Haddad v. Netflix, Inc., et al.*, Case No. 09-00958, filed March 5, 2009.

The *O'Connor*, *Endzweig*, *Schmitz*, *Lynch*, and *Groce* actions were ordered related to the *Resnick* action on January 16, 2009. The *Sivek*, *Faris*, and *Anthony* actions were ordered related to the *Resnick* action on January 26, 2009. The *Slobodin*, *Polk-Stamps*, *Chapman*, and *Orozco* actions were ordered related to the *Resnick* action on January 29, 2009. The *Sheeler*, *Landels*, *Grime*, *Meyer*, *Randall*, *Miscioscia*, *Hirsch* and *Chatelain* actions were ordered related to the *Resnick* action on February 2, 2009. The *Patras*, *Weiner*, *Millrood*, *Kober*, *LaCabe*, *Roy*, *Bruno*, *Zaker*, *Parikh*, *Johnson* and *Gannon* actions were ordered related to the *Resnick* action on February 9, 2009. The *Williams* action was related to the *Resnick* action on February 25, 2009. The *Cornett*, *Macias*, and *Randle* actions were ordered related to the *Resnick* action on March 17, 2009. The *Norem* and *Haddad* actions were ordered related to the *Resnick* action on March 26, 2009. All of these related cases have been assigned to Honorable Phyllis J. Hamilton.

21 All of these actions involve substantially the same transactions, events, questions of law,
22 and allege the same violations of federal antitrust law against the same Defendants. These actions
23 allege that Defendants conspired to allocate the market of DVD rentals, agreed not to compete in
24 that market, and that Netflix monopolized or attempted to monopolize the DVD rental market.
25 These actions are alleged to have harmed consumers who were Netflix subscribers by causing
26 them to pay more for their subscriptions than they would have paid absent Defendants' illegal
27 market allocation agreement. It appears likely that there will be an unduly burdensome

1 duplication of labor and expenses and potentially conflicting results if the cases are heard by
2 different judges.

3 Given the similarities of these actions, assignment of the *Kra* case to a single Federal
4 District Court Judge will conserve judicial resources and promote efficient determination of the
5 actions while avoiding potentially conflicting results. All of the related cases pending in this
6 District are at a preliminary stage and, thus, assignment to a single judge would not prejudice any
7 of the parties. Because Judge Hamilton is familiar with the facts, the parties, and the claims, it would
8 be an unduly burdensome duplication of labor and expense if the cases are conducted
9 before different judges.

10 Moreover, in its Order entered on April 30, 2009, the Court directed that all future cases
11 related to *Resnick, et al. v. Walmart.com USA LLC, et al.*, shall be centralized for consolidated or
12 coordinated pretrial proceedings with those cases already on the Master Docket pending in MDL No.
13 2029. Accordingly, plaintiff Gabriel Kra respectfully requests that *Gabriel Kra v. Netflix, Inc., et*
14 *al.* be placed in MDL No. 2029 as it is related to *Resnick*.

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16 Dated: May 7, 2009

GROSS BELSKY ALONSO LLP

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By: /s/ Adam C. Belsky
Adam C. Belsky

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